

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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7-1-02**2002 JUL -2 PM 2:56**JW SKUPNIEWITZ
CLERK US DIST COURT
WD OF WI

NEIL GAIMAN, et al.,

Plaintiffs,

v.

TODD McFARLANE, et al.,

Defendants-Counterclaimants,

Case No. 02-C-0048-S

AFFIDAVIT OF LAWRENCE P. MARDER

Lawrence P. Marder, being first duly sworn on oath, states as follows:

1. From December of 1993 until September of 1999, I was employed as Executive Director of defendant Image Comics, Inc. ("Image Comics"). In that capacity, I had supervisory responsibility for the reports generated by Image Comics in the ordinary course of its business and delivered to the persons and entities whose comic books Image Comics published.

2. Attached to this affidavit are true and correct copies of Image Comics' reports indicating the dates on which issue 26 of *Spawn* and issues 1 through 3 of *Angela*, and the trade paperback reprints of those comic books that are included in this lawsuit, were shipped for publication. (These various publications are reproduced as Exhibits D, E, G, H, I, N and O in the Appendix to the Answer of the McFarlane Defendants.)

3. Also attached are true and correct copies of Image Comics' reports indicating to whom copies of some of these issues were shipped.

4. All of the attached documents are true and correct copies of documents that Image Comics regularly maintains in the normal course of its business as a publisher of comic books.

5. Because issue 9 of *Spawn* was published by Malibu Comics, Image Comics does not have any documents indicating the date on which that issue was shipped for publication. (See Bates No. IC 005142).

6. *Spawn* Trade Paperback # 2, which reprinted and contained an unaltered version of *Spawn* issue 9, was shipped for publication on June 12, 1996. (See Bates No. IC 005273).

7. Issue 26 of *Spawn* was first shipped for publication on December 27, 1994. (See Bates No. IC 005143-44).

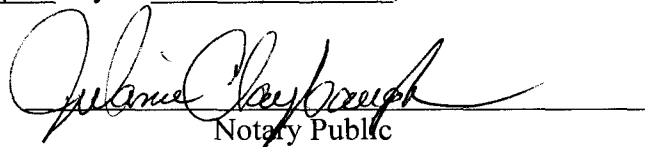
8. *Spawn* trade paperback # 6 (*Pathways to Judgment*), which reprinted and contained an unaltered version of *Spawn* issue 26, was first shipped for publication on May 29, 1998. (See Bates No. IC 005145).

9. The *Angela* trade paperback, which reprinted and contained unaltered versions of issues 1-3 of the *Angela* comic book series, was first shipped for publication on November 7, 1995. (See Bates No. IC 005174). Twenty copies of the *Angela* trade paperback were shipped to Neil Gaiman on November 7, 1995. (See Bates No. IC 005181).

10. *Angela's Hunt*, a second trade paperback reprinting and containing unaltered versions of issues 1-3 of the *Angela* comic book series, was first shipped for publication on August 21, 1998. (See Bates No. IC 005156).


LAWRENCE P. MARDER

Subscribed and sworn to before me this 1 day of JULY, 2002.


Notary Public

My Commission Expires: 8-31-04